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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,836	03/08/2004	Andras Kuthi	LAM1P077A2	2484
25920	7590	03/18/2005	EXAMINER	
MARTINE PENILLA & GENCARELLA, LLP			ALEJANDRO MULERO, LUZ L	
710 LAKEWAY DRIVE			ART UNIT	
SUITE 200			PAPER NUMBER	
SUNNYVALE, CA 94085			1763	

DATE MAILED: 03/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,836

Applicant(s)

KUTHI ET AL.

Examiner

Luz L. Alejandro

Art Unit

1763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomita et al., U.S. Patent 5,593,540 in view of Chang et al., U.S. Patent 4,854,263.

Tomita et al. shows the invention substantially as claimed including an apparatus comprising: an electrode 3 capable of being positioned over a substrate location W, the electrode having a center region, a first surface and a second surface, the first surface being configured to receive processing gases through an inlet 55 and to enable flow of the processing gases through the center region, the second surface having a plurality of gas feed holes that are coupled to a corresponding plurality of electrode openings, the

Art Unit: 1763

plurality of electrode openings being configured to define the second surface which is located over the substrate location, the second surface having a surface area that is larger than a surface area of the substrate location, the larger surface area being capable of inducing an increased bias voltage at a point closer to the substrate location and a decreased bias voltage at a point closer to the second surface of the electrode when a plasma is struck in a space defined between the second surface and the substrate location (see figs. 1-4 and col. 3-line 40 to col. 5-line 60). Note that inherently the plasma sheath will form within the inlet openings 55 to form the second plasma sheath surface area since the openings have an opening diameter of 0.6mm (see applicant's specification at page 13, lines 22-24 and col. 5-lines 3-5 of Tomita et al.).

Tomita et al. fails to expressly disclose where the electrode opening diameters are greater than the gas feed hole diameters. Chang et al. discloses an electrode which has been formed so as to comprise gas feed holes 33 that lead to a plurality of electrode openings 31, the electrode openings having diameters that are greater than gas feed hole diameters of the plurality of gas feed holes in order to enhance dissociation and reactivity of the gases (see col. 5-lines 33-53 and figs. 1-3). In view of this disclosure, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Tomita et al. as to comprise electrode openings having diameters that are greater than gas feed hole diameters of the plurality of gas feed openings because this would enhance dissociation and reactivity of the gases.

With respect to claims 2-3, 6-7, and 10, note that in Tomita et al. the first plasma sheath surface is defined next to the substrate location and a second plasma sheath surface is defined next to the second surface, and the second plasma sheath surface follows an outline defined by the plurality of electrode openings of the second surface of the electrode, and has a larger surface area than the first plasma sheath surface.

Concerning claims 4, 8, and 12, Tomita et al. and Chang do not disclose that the gas feed holes have a diameter of 0.1mm and the second plasma sheath surface is about 2.7 times greater than the first plasma sheath surface, but it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize through routine experimentation the gas feed hole diameter and the relative surface area of the first and second plasma sheath areas depending upon a variety of factors, for example, the particular size of the semiconductor being processed, and therefore the claimed dimensions would not lend patentability to the instant application absent the showing of unexpected results.

Response to Arguments

Applicant's arguments filed 12/27/04 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208

USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Applicant argues that a prima facie case of inherency with respect to plasma forming in the holes of the Tomita et al. reference has not been established. However, the examiner submits that statements both in applicant's own specification and in the Tomita et al. reference establish the case of inherency. Furthermore, while the intention in the Tomita et al. reference is to suppress polymerization in the holes from the plasma, it is clear simply by the use of the word "suppressed" that while not as much plasma will be present in the holes than in the prior art due to the flow rate of the gas, some plasma will still be present (see col. 2-lines 37-53). Furthermore, and as evidenced by applicant's declaration, polymerization occurs at high plasma densities but may not necessarily occur at lower plasma densities.

Regarding the declaration under 37 CFR 1.132, the examiner can appreciate that forming plasma in a gas hole of a showerhead, for example, may not be desirable but this does not take away from the fact that in Tomita et al. inherently the plasma will be shifted into the gas holes. Concerning the fact that in the instant invention the hole size is increased in order to intentionally introduce plasma, in Tomita et al. the hole dimensions are very similar to those in the instant invention so one would expect that if plasma were to shift into the holes of the instant invention, it would shift into the holes of Tomita et al. whether it is desirable or undesirable.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luz L. Alejandro whose telephone number is 571-272-1430. The examiner can normally be reached on Monday to Thursday from 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Parviz Hassanzadeh can be reached on 571-272-1435. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Luz L. Alejandro
Primary Examiner
Art Unit 1763

March 17, 2005